

In Re: Thadi Subbi Reddi

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Court : Chennai

Decided On : Feb-27-1930

Reported in : 129Ind.Cas.72; (1930)59MLJ229

Appellant : In Re: Thadi Subbi Reddi

Judgement :

ORDER

Krishnan Pandalal, J.

1. This is a reference under Section 215 of the Code of Criminal Procedure by the Assistant Sessions Judge of East Godavari requesting this Court to quash the committal under Section 213 to that Court of the respondent Thadi Subbi Reddi.

2. The respondent was the President of a Co-operative Society. Another person who was committed along with him to the Lower Court was the secretary of the same society. They and three other people were charged with having got up a bond for Rs. 750 purporting to be executed by one Karri Venkata-reddi in favour of the Society, the respondent Subbi Reddi signing it as a surety. The respondent and the secretary are alleged to have, after putting this, upon the record of the cooperative society, handed it over to their successors when they left the office on the 2nd of November, 1928. When the new President filed a suit on the bond before the Assistant Registrar against Karri Venkatareddi, the alleged maker, and the respondent as surety, Karri Venkatareddi brought a criminal complaint of

forgery against the respondent, the secretary, and three others. The respondent and the secretary were also charged with having used the bond knowing it to be a forgery by handing it over to their successors in office. The Magistrate committed the five accused. In the Sessions Court the charge of forgery was ordered to be dealt with separately from the charge of using a forged document as genuine, because the latter charge only affected the respondent and the secretary, whereas the former affected all the five accused persons. But in the Sessions Court it was discovered that the bond having been filed before the Assistant Registrar for the purpose of the suit, the case of forgery against the respondent and of using the document as a genuine document against the respondent could not proceed for want of the necessary complaint under Section 195 of the Code of Criminal Procedure. As the trial on the forgery section had begun the learned Sessions Judge discharged the respondent in that case relying upon Certain decisions which show that that is the proper course when the defect is discovered after the trial has begun. But the trial under Section 471 against the respondent not having actually commenced, he has reported the matter to this Court for the committal being quashed.

3. The two questions which arise are: (1) Whether the Assistant Registrar before whom the Co-operative Society has filed its suits or its claim for enforcing the bond is a Court within the meaning of Section 195 of the Code of Criminal Procedure, and (2) if so, whether the fact of the alleged use of the document having been before the institution of that suit, Section 195(c) applies to the case at all.

4. On the first question, Clause (2) of Section 195 as amended in 1923 states that in clauses (b) and (c) of Sub-section (1) of the same section the term 'Court' includes a Civil, Revenue or Criminal Court, etc. It has been held that the term 'Court' in this section has a wider meaning than the expression 'Court of Justice' in the Penal Code and includes a tribunal entitled to deal with a particular matter and authorised to receive evidence bearing thereon in order to enable it to arrive at a determination upon the question. Vide *Nanda Lal Ganguli v. Khetra Mohan Ghose* I.L.R. (1918) C. 585. According to Rule 14 of the Rules made by the Local Government in pursuance of Section 43(1) of the Cooperative Societies Act, the Registrar to whom a dispute touching a debt due to a society by a member is

referred has power to administer oaths, to require the attendance of all parties concerned and of witnesses and to require the production of all books and documents relating to the matter in dispute. By the same rule the Registrar is required to give a decision in writing and when it is given the decision may be enforced on application to the Civil Court having jurisdiction over the subject-matter of the decision as if it were a decree of Court. The Registrar acting under this Rule No. 14 falls clearly within the description of 'Court' given in the decision cited and I, therefore, hold that the Assistant Registrar before whom the suit was filed was a Court.

5. On the second question, the learned Sessions Judge has referred to *In re Bhau Vyankatesh* I.L.R. (1925) B. 608 *Khairati Ram v. Malawa Rant* I.L.R. (1924) Lah. 550 and *Kanhaiya Lal v. Bhagwan Das* I.L.R. (1925) A. 60 to show that, even where the use as genuine of a forged document under Section 471 is prior to the proceedings before the Court, the complaint of the Court before which that document was filed or used is necessary under Section 195. But there is a decision of our own Court to the same effect; and where there are decisions of this Court it is the duty of Subordinate Courts to be guided by them rather than by the decisions of other High Courts. In *In re Parameswaran Nambudri* I.L.R. (1915) M. 677 with respect to a case which fell under Section 195(1)(b), it was held that 'it (clause b) aims at doing so by providing that where, prior to the institution of the criminal prosecution, a properly constituted judicial tribunal has placed itself in a position to determine whether the facts constituting the offence really exist, the Criminal Court should decline cognizance unless that tribunal has, in effect, certified that in its opinion the complaint, is one worthy of investigation.' Cases under Section 195(1)(c) are as regards this matter on exactly the same footing as those which fall under Clause (b). If anything, the matter has been put beyond controversy by the wording of Clause (c) as amended which is 'when such offence is alleged to have been committed by a party to any proceeding in any Court,' etc. The word 'alleged' shows that the use complained of may be before the proceedings in Court commenced. It follows that a complaint by the Assistant Registrar was in this case necessary before any Court could take cognizance of the charge under Section 471 against the respondent. The whole of the proceedings, therefore, before the Magistrate were incompetent and the

commitment by him must, therefore, be and hereby is quashed.

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